

NEW YORK HAZARDOUS WASTE FACILITY SITING PROVISIONS

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Relevant Statutes and Regulations:

G Title 11 of Article 27, ECL §§27-1101 through 27-1115--Industrial Siting Hazardous Waste Facilities (1996 Cumulative Pocket).

G Title 6 NYCRR Part 361--Siting of Industrial Hazardous Waste Facilities (1995).

G Title 6 NYCRR 373-2.2(j)--Location Standards (1995).

<http://www.dec.state.ny.us/website/regs/index.html> has New York State regulations

Other Relevant State Documents:

G None were found

State Agency Web Address

G <http://unix2.nysed.gov/ils/executive/encon/encon.htm>

New York Hazardous Waste Facility Siting Provisions

Affected Facilities:

- G** Industrial hazardous waste facilities, as defined below. No person may commence construction or operation of such a facility without receiving a certificate of environmental safety and public necessity from the Facility Siting Board. The statutes (27-1105.1) specify that these facilities include:
- ! any new commercial facility, wherever situated,
 - ! any new incineration facility, wherever situated,
 - ! any new land disposal facility, wherever situated, and
 - ! any expansion, wherever situated, of the aggregate land disposal capacity of an existing land disposal facility.
- G** Facilities specifically excluded at §27-1105.2:
- ! A facility that does not require permits pursuant to the State's hazardous waste program (i.e., as per Title 9, Article 27).
 - ! A land disposal facility located at the site of an existing land disposal facility where both the existing facility is or was and the proposed facility will be used solely for the disposal of non-incinerable residues from the on-site thermal destruction or chemical or aqueous treatment of wastes generated at the site of such facilities.
 - ! A facility that has been determined by the Department to have no significant environmental impact pursuant to Article 8, Chapter 43-B.
 - ! Additional facilities, other than land disposal facilities, to be located at the site of an existing facility, the operation of which will be substantially similar to that of the existing facility with respect to the mode of waste management and the type and quantity of waste being managed.
- G** Facilities specifically excluded at 361.1(f):
- ! The application for the construction and operation of an industrial hazardous waste facility was submitted to the Department, and denied, prior to September 1, 1979.
 - ! The proposed industrial hazardous waste facility will be located at the site of an existing facility and its operation is substantially similar to the existing facility with respect to the mode of waste management and the type and quantity of hazardous waste being managed. For a facility which discontinues operation for a period of time, the applicant must demonstrate to the Department that the operation of the facility and the prevailing environmental conditions in the vicinity of the site are substantially the same as when the facility was previously in operation.
 - ! The Department determines that the construction and operation of the proposed industrial hazardous waste facility will have no significant environmental impact.

New York Hazardous Waste Facility Siting Provisions

Definitions of Facility Types:

- G** An industrial hazardous waste facility is a specialized facility or site, other than a sewage treatment plant, used for treating, storing, compacting, recycling, exchanging or disposing of industrial hazardous waste materials, including treatment, compacting, resource recovery or disposal plants, equipment and furnishings thereof used for the storage, treatment, compacting, composting, shredding, converting, utilization, processing, or final disposal of hazardous waste, including but not limited to mechanical, chemical or thermal processing systems, incinerators, sanitary landfills, other facilities for storage, reduction or conversion of hazardous waste, including but not limited to transfer stations, baling facilities, railroad and maritime facilities, motor trucks or vehicles and appurtenances, furnishings, equipment and machinery deemed necessary thereto. (361.1(a)(10))
- G** Industrial hazardous waste materials means industrial waste which appears on the lists or satisfies the criteria promulgated by the Commissioner pursuant to ECL §27-0903, and until, but not after, the promulgation of such list and criteria, an industrial waste or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:
- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - b. Pose a substantial present or potential hazard to human health or the environment and, therefore, must be segregated and excluded from the general municipal waste system and sewage collection and treatment process. (361.1(a)(9))

Applicability of State Siting Plan

- G** Applies to industrial hazardous waste facilities as defined above
- G** Developed by the New York Department of Environmental Conservation

New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
ADMINISTRATION			
STATE ADMINISTERING AGENCY			
Commissioner of the New York Department of Environmental Conservation (NYDEC)--Siting criteria	NA	[§27-1103.1 & .2]	<p>Within in one year after the effective date of ECL §27-1103, the Commissioner of NYDEC (or the Department) must, after investigation and opportunity for public comment, publish criteria for siting industrial hazardous waste treatment, storage and disposal facilities. These criteria are to be designed to insure the maximum safety of the public from hazards associated with treatment, storage, and disposal of hazardous wastes. The siting criteria must take into account among other factors:</p> <ul style="list-style-type: none"> ! The density of the population in areas neighboring the proposed facility ! The density of the population in areas adjacent to delivery routes for the proposed facility ! The risk of accident during the transportation of hazardous wastes
	NA	[§27-1103.1 & .2]	<ul style="list-style-type: none"> ! The risk of contamination of ground and surface waters by leaching and runoff from the proposed facility ! The risk of fires or explosions form improper storage and disposal methods ! The impact on the municipality where the facility is to be sited in terms of health, safety, cost and consistency with local planning, zoning or land use laws and ordinances ! The nature of the probable environmental impact, including specification of the predictable adverse effects on the natural environment and ecology, public health and safety, scenic, historic, cultural and recreational value, water and air quality, wildlife and an evaluation of measures to mitigate adverse effects

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New York Hazardous Waste Facility Siting Provisions

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Commissioner of the NYDEC--the certification application form	NA	[§27-1103.1 & .3]	<p>Within a year after the effective date of ECL §27-1103, the Commissioner must adopt criteria prescribing the form and content of applications for a certificate of environmental safety and public necessity to construct an industrial hazardous waste treatment, storage and disposal facility. The certification application form must require the applicant to supply:</p> <ul style="list-style-type: none"> ! The location of the proposed facility ! A description of the design and capacity of the facility ! The expected sources of hazardous waste, the proposed methods of transport and the routes which deliveries will follow ! The need for the facility ! The environmental impacts of the proposed facility ! A description of reasonable alternative locations for the proposed facility ! Such other information as the Commissioner shall prescribe as to whether the proposed facility is necessary and compatible with the surrounding environment and with the health, safety, and welfare of neighboring populations
Commissioner of the NYDEC--adjudicatory hearing responsibilities	PA	361.4(b); [§27-1105.3(e)]	The Commissioner of the NYDEC will, simultaneously with the constitution of the Facility Siting Board, appoint a hearing officer to conduct an adjudicatory public hearing with respect to any permit applications relating to the construction and operation of the facility.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
New York State Department of Environmental Conservation (the Department)--responsibilities relative to the siting certificate	PA	361.3(a); [<i>§27-1105.3(b)</i>]	Within 15 days of receipt of an application for the construction and operation of a new industrial hazardous waste facility, the Department must determine whether a certificate is required or whether additional information is needed from the applicant. If more information is needed, the applicant must be notified in writing specifying the information needed. The submission of the additional information commences a new 15-day period
	PA	361.3(b)	Whenever the Department publishes a notice of intent to determine nonsignificance, the time period for the Department's determination of certificate application completeness is suspended pending the determination of environmental significance.
	PA	361.3(c)	If the proposed facility does not require a certificate, the Department will notify the applicant in writing and will process the permit application according to NYCRR Parts 617, 621, 624 and any other relevant Parts of NYCRR Title 6.
	PA	361.3(d)	If the proposed facility requires a certificate, the Department will notify the applicant in writing.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
New York State Department of Environmental Conservation (the Department)--responsibilities relative to the siting certificate (continued)	PA	361.3(f)& (g)(1)	Within 15 calendar days after receipt of the certificate application, the Department shall notify the applicant in writing whether the application is complete. If the Department fails to mail this notice, the application shall be deemed complete. If the application is incomplete, the notice must include a concise statement of the respects in which the application is incomplete. The resubmission of the application or additional information commences a new 15-day period for the Department to determine completeness.
	PA	361.3(g)(6)	The Department must send the application to the Governor and request that a Facility Siting Board be constituted.
	PA	361.5	The Department shall act upon all permit applications within the time periods in NYCRR Parts 621 and 624. If the Facility Siting Board denies the certificate before the Department takes action on any permit application(s), all such permit applications shall be deemed denied.
	PA	361.6(a)(4) & 361.6(b)	If the Department grants the applicant a hazardous waste permit, the certificate and any conditions in it are merged with the permit requirements, i.e., they become part of the permit. Any conditions imposed on the certificate as incorporated as conditions of the permit. Any modification, suspension, or revocation of the permit and all rules and regulations applying to the permit modification, suspension or revocation apply to the certificate in a like manner.

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New York Hazardous Waste Facility Siting Provisions

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The Department--ability to grant variances	PA	361.1(e)	<p>If a written application for a variance is submitted by a person subject to NYCRR Part 361, the Department and the Facility Siting Board may grant a variance from one or more of the specific provisions of NYCRR Part 361. The application for a variance must:</p> <ul style="list-style-type: none"> ! Identify the specific provisions for which the variance is sought. ! Demonstrate that compliance with the identified provisions would, on the basis of conditions unique and peculiar to the applicant's particular situation, tend to impose a substantial financial, technological or safety burden on the applicant or the public. ! Demonstrate that the proposed activity will have no significant adverse impact on the health, safety, welfare, natural resources, or environment of persons living in New York and will be consistent with the ECL provisions, the purpose of these rules and regulations, and the performance expected from application of these rules and regulations. <p>In granting any variance, the Department or the Board may impose specific conditions reasonably necessary to assure that the subject activity will have no adverse impact on the health, safety, welfare, natural resources or environment of persons living in New York.</p>
The Applicant	NA	361.2	The applicant cannot initiate construction or operation of a new hazardous waste facility without a certificate unless the facility is exempted.

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The Applicant-certificate application	PA	361.3(e); [<i>§27-1105.3(a)</i>]	<p>Must submit a certificate application which consists of:</p> <ul style="list-style-type: none"> C completed applications for all permits and other entitlements required under the ECL for the proposed facility, unless the applicant shows good cause not to submit any such application at the time of certificate application C a draft EIA prepared in accordance with NYCRR Part 617 C the expected sources of hazardous waste for the facility, the proposed methods of transporting wastes to and from the facility and the routes which deliveries will traverse C a description of the design and capacity of the facility C a statement concerning the type and volume of wastes to be handled at the facility C a statement documenting the need for the facility C a detailed program for closure of the facility which the applicant proposed to implement when the operation of the facility terminates, together with a proposed method for assuring such implementation. C a precise description of the location and boundaries of the proposed site C a complete statement of all persons who will or have any other interest in any real property on which the site is located C name and principal place of business of the intended operator of the proposed facility, if different from the applicant • the status of the site under local zoning or land use regulations in force on the date of application. C such other information as the Commissioner shall prescribe concerning the impact of the proposed facility on the health, safety and welfare of neighboring populations.
THE INTERAGENCY COORDINATING COUNCIL			
No provisions found.			

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INDEPENDENT SITING BOARD			
Governor's Responsibilities	PA	361.4(a); [<i>§27-1105(d)</i>]	Within 15 days after receiving notice of the complete certificate application from the Department, the Governor is to constitute a Facility Siting Board for the purpose of conducting an adjudicatory hearing on the certificate application.
Composition of Facility Siting Board	PA	[<i>§27-1105.3(d)</i>]	The Facility Siting Board will be composed of the Commissioners of Transportation, Environmental Conservation, Health and Commerce, the Secretary of State, and three ad hoc members appointed by the Governor, two of whom must be residents of the county in which the facility is primarily proposed to be located. In addition to the requirements of the public officers law, no person shall be eligible to be an appointee of the Governor to the Board who holds another state or local office. The Governor appoints the Chairman of the Board. The Commissioner of Environmental Conservation must make staff available to support the Board in carrying out its responsibilities.
Operation of Facility Siting Board	PA	[<i>§27-1105.3(d)</i>]	Each of the three ad hoc members must be employees of the State for the purposes of section seventeen of the public officers law. Each of the three ad hoc members shall receive the sum of two hundred dollars for each day in which he is actually engaged in the performance of his duties plus actual and necessary expenses incurred by the performance of his duties. The terms of the ad hoc members continues until a final determination has been made in the particular proceedings for which they were appointed. Each ex officio member of the Board may by written instrument filed with the Board designate an employee or officer of his Department to act on his behalf relating to any or all business of the Board. Five of the eight persons on the Board constitutes a quorum for the transaction of any business of the Board, and the decision of five members of the Board constitutes an action of the Board.

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Responsibilities of the Facility Siting Board	PA	361.4(d)-(g); [§27-1105.3(f)& (g)]	<p>Ⓒ Conducts a prehearing conference as per NYCRR 361.4(d) where the Board announces whether or not the Draft Environmental Impact Statement (DEIS) is deficient and whether the applicant has to prepare a supplemental DEIS.</p> <p>Ⓒ Conducts a joint public adjudicatory hearing with the hearings officer. Chairman must enter into a Memorandum of Agreement (MOA) with the regarding their obligations and responsibilities with respect to the conduct of the hearing. All parties to the hearing must receive a copy of the MOA.</p> <p>Ⓒ The Board will make a determination as to whether or not to deny the certification within 60 calendar days of receiving a complete record of the hearing. The Board must deny the certification if:</p> <ul style="list-style-type: none"> - residential areas and contiguous populations will be endangered - the construction or operation of the facility would be contrary to local zoning or land use regulations in force on the date the Department receives the application for an industrial hazardous waste facility. If a zoning variance is needed, the Board may approve the certificate conditioned upon receipt of the variance or a special use permit. - the facility does not conform to the siting criteria in NYCRR 361.7. - the Board finds that the facility is not necessary or is otherwise not in the public interest. <p>Ⓒ The Chairman of the Board shall mail written notice of its decision to the applicant, the Department, and all parties to the hearing.</p> <ul style="list-style-type: none"> - the facility does not conform to the siting criteria in NYCRR 361.7. - the Board finds that the facility is not necessary or is otherwise not in the public interest. <p>Ⓒ The Chairman of the Board shall mail written notice of its decision to the applicant, the Department, and all parties to the hearing.</p>

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Facility Siting Board's authority with respect to the approval or disapproval of the construction and operation of an industrial hazardous waste facility	PA	361.4(g) 361.6(a)(1)	<p>Ⓒ The Board has no functions with respect to the approval or disapproval of the construction and operation of an industrial hazardous waste facility other than above. The responsibility for any modification, suspension or revocation of the certificate, except as to site approval itself, or the approval any permits required for the construction or operation of an industrial hazardous waste facility are with the Department.</p> <p>Ⓒ The Board may set forth the period of time in which the applicant must commence construction of a facility for which it was granted a certificate</p>
Facility Siting Board--other conditions in certificate	PA	361.6(a)(3)	Ⓒ The Board may impose other reasonable conditions on the certificate as it deems appropriate.
Facility Siting Board responsibilities relative to siting criteria	PA	361.7(a)	The Board in making its determination to grant, conditionally or otherwise, or to deny a certificate shall consider the criteria listed in NYCRR 361.7(b). These criteria each relate three distinct situations relative to such criteria. The first is considered most favorable to the siting requirements; the second situation is considered less favorable and the third situation is considered the least favorable. See the siting criteria section for specific requirements.

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Facility Siting Board--responsibilities relative to application of the siting criteria	PA	361.7(c)	<p>! The Board must make determinations relating to the specific criteria. The Board must insure that its conclusions are consistent with the intent as expressed in the general considerations associated with each siting consideration.</p> <p>! The tables following NYCRR 361.7 in Appendix 17 provide guidelines for evaluating the relative importance of each criterion. The Board may alter the weight given to any or all of the criteria depending upon specific circumstances unique to the proposed site. The Board must reallocate weights among remaining criteria should one or more criteria not be applicable to a specific site, such that the sum of the average weights for the remainder of the criteria equals 100. The Board must determine the importance assigned to each criterion and signify the same in its report.</p> <p>! The relative desirability of a proposed facility is determined by the Board by applying its conclusions to the siting criteria to the tables following NYCRR 361.7 in the manner set forth in Appendix 17. Based on the tables, the numerical value which the Board determines represents the relative desirability of the proposed facility determines whether the siting criteria have been satisfied. Facilities which score 200 or above do not meet the siting criteria. Facilities which score below 200 are adequately sited but may require the imposition of special conditions under the certificate.</p> <p>! Nothing in the siting criteria limits the authority of the Board to deny an application if residential areas and contiguous populations will be endangered if construction or operation of such facility would be contrary to local zoning or land use regulations in force on the date of the application or the Board finds that the facility is not necessary or is otherwise not in the public interest.</p>

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Facility Siting Board--ability to grant variances	PA	361.1(e)	<p>If a written application for a variance is submitted by a person subject to NYCRR Part 361, the Department and the Facility Siting Board may grant a variance from one or more of the specific provisions of NYCRR Part 361. The application for a variance must:</p> <ul style="list-style-type: none"> ! Identify the specific provisions for which the variance is sought. ! Demonstrate that compliance with the identified provisions would, on the basis of conditions unique and peculiar to the applicant's particular situation, tend to impose a substantial financial, technological or safety burden on the applicant or the public. ! Demonstrate that the proposed activity will have no significant adverse impact on the health, safety, welfare, natural resources, or environment of persons living in New York and will be consistent with the ECL provisions, the purpose of these rules and regulations, and the performance expected from application of these rules and regulations. <p>In granting any variance, the Department or the Board may impose specific conditions reasonably necessary to assure that the subject activity will have no adverse impact on the health, safety, welfare, natural resources or environment of persons living in New York.</p>

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LOCAL COMMUNITY NEEDS AND INVOLVEMENT			
LOCAL REVIEW/INVOLVEMENT			
Community Advisory Committee	PA	[§27-1113.1 through .3]	<p>A county in which an industrial hazardous waste treatment, storage and disposal facility is to be situated must constitute a committee for the purpose of entering into a dialogue with the applicant to develop mutually acceptable solutions to problems which may be created by siting the facility in the community.</p> <p>The committee must have 9 to 15 members. No more than 1/3 of the members shall be designated by the Chief Executive Officer/Chairman of the County Legislative Body. No less than 2/3 of the members shall be designated by the Chief Executive Officer of the affected city/town/village. If the proposed facility is located in more than one city/town/village, the chief executive offices shall elect an equal number of members, the total of which must not be less than 2/3 of the committee.</p> <p>Committee members are deemed employees of the public entity that designated them.</p>
Meetings between the community advisory committee and the applicant	PA	[§27-1113.4]	<p>Within fifteen days after receipt of notification of the constitution of a community advisory committee, the Chairman of the Facility Siting Board or his designee must convene and preside over a conference between the applicant and the committee. The Chairman of the Facility Siting Board or his designee shall endeavor to foster a dialogue between the applicant and the committee, and must preside over such additional conferences as may be necessary.</p>

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Aid to local governments	NA	[§27-1115]	<p>No later than April, 1988, the Department submitted to the Legislature and the Governor a report recommending appropriate forms of state aid or assistance to local governments within the boundaries of which an industrial hazardous waste facility may be located. This report was to:</p> <ul style="list-style-type: none"> ! describe the nature of the probable impacts upon local governments ! describe the possible forms or kinds of state or other aid or assistance which might be appropriate to mitigate or provide off-setting benefits with respect to each of the kinds of probable impacts on local governmental units ! set for the Department's specific recommendations to the Legislature and the Governor for the forms of state or other aid or assistance to local governments
Powers of municipalities	PA	[§27-1107]	No municipality may, except as expressly authorized by ECL Article 27 or by the Facility Siting Board, require any approval, consent, permit, certificate or other conditions including conformity with local zoning or land used laws and ordinances, regarding the operation of a facility which respect to which a certificate has been granted. This is provided that the municipality has received notice of the filing of the facility's permit application.
OTHER AGENCY OR GOVERNMENTAL ENTITY INVOLVEMENT			
Heads of other state agencies	PA	[§27-1105.3(d)]	Other agencies are involved to the extent that the Commissioners of Transportation, Health and Commerce, and the Secretary of State are part of the Facility Siting Board.
COMPATIBILITY OF FACILITY SITE WITH LOCAL SOLID WASTE MANAGEMENT PLANS			
No provisions found.			

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IMPACT OF FACILITY ON LOCAL LAND USE			
Municipal effects evaluation by Facility Siting Board	PA	361.7(b)(6)	<p>The site shall be considered for consistency with the intent of municipal master land use plan. It is important to insure that the construction and operation of the proposed facility will not adversely impact planning schemes developed by the municipalities in which they are located. Specific criteria:</p> <p>(a) Consistency with the intent of master land use plan</p> <p>! Most favorable--the siting of the proposed facility is consistent with the specific intent and overall approach of the master land use plan.</p> <p>! Less favorable--the siting of the proposed facility is generally consistent with the specific intent and overall approach of the master land use plan although some inconsistencies are present.</p> <p>! Least favorable--the siting of the proposed facility has major inconsistencies with the specific intent and overall approach of the master land use plan.</p>

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PUBLIC PARTICIPATION			
The federal regulations regarding the public participation process for the permitting of hazardous waste (RCRA) facilities can be viewed at http://earth1.epa.gov/epacfr40/chapt-I.info/subch-D/40P0124.pdf within the Part 124 Procedures for Decisionmaking. (State regulations cannot be less stringent than the federal counterparts.)			
NOTIFICATION			
Notice of intent to determine non-significance	PA	361.3(b)	The Department must publish a notice of intent to determine nonsignificance in the Environmental Notice Bulletin. This must be published prior to the determination and the Department shall not determine whether the construction and/or operation of the proposed facility will have a significant environmental impact for at least two weeks after this notice appears in the Environmental Notice Bulletin.
Notice of certificate application completeness	PA	361.3(g)(2)-(4); [<i>§27-1105.3(c)</i>]	<p>Ⓒ Upon determining that a certificate application is complete, the Department shall cause a notice of application to be published in the next available Environmental Notice Bulletin. This notice must be published within 10 days after this notice.</p> <p>Ⓒ The applicant must provide notice to all property owners of record within one-half mile of the proposed facility that the application is complete as well as to such other persons and in such manner as is determined by the Department.</p> <p>Ⓒ The Department must publish or cause to be published a notice of the certificate application in at least two newspapers having a general circulation in the area in which the proposed activity will be located, in contiguous areas potentially affected by the proposed action and in the newspaper(s) of record for the township or city in which the proposed facility is located.</p>

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Public notice standards	PA	361.3(h)	All public notices must be sent by first class mail and the applicant shall provide the Department with proof that all notices required by NYCRR 361.3 were properly issued. All public notices must include a statement concerning requests for variances from the requirements of NYCRR Part 361. If an applicant requests a variance subsequent to provision of notice as specified in this section, all such public notices shall be reissued as soon as practicable and shall provide notice of all new variance requests.
Notice of adjudicatory hearing	PA	361.4(c) (referenced 361.3(g),(h))	At least 30 calendar days prior to the commencement of the hearing, the Department or the applicant, at the direction of the Department, must give notice thereof in the same form and manner as provided for in subdivisions 361.3(g) and (h) of this Part.
Renotification if there are major deficiencies in the DEIS	PA	361.4(d)	When the Board (or other lead agency) determines that the DEIS has major deficiencies and the applicant has been instructed to submit a supplemental DEIS, the Board shall cause a revised notice of public hearing to be published in the same manner as the original notice for the adjudicatory hearing. The revised notice shall indicated that a supplemental DEIS has been prepared.
PUBLIC MEETING			
No provisions found.			
PUBLIC HEARINGS			
Public hearings or briefings to encourage and facilitate discussions and negotiations among potential owners and host communities	PPA/PA	[§27-1109.4]	If after reviewing the statewide hazardous waste facility site plan, the Department finds that existing and pending/approved facilities are not sufficient to meet the schedule contained in the plan, the Department must undertake measures to assist any interested potential industrial hazardous waste treatment, storage and disposal facility owners/operators in finding an appropriate site. The Department shall hold public hearings or briefings designed to encourage and facilitate discussion and negotiations among such potential owners and operators and any potential host community for such facilities.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
ADJUDICATORY HEARINGS			
Facility Siting Board appointment	PA	361.4(a)	The Governor must constitute a Facility Siting Board within 15 days of receipt from the Department that the certificate application is complete.
Hearing Officer appointment	PA	361.4(b); [<i>§27-1105.3(e)</i>]	The Commissioner of the Department of Environmental Conservation will, simultaneously with the constitution of the Facility Siting Board, appoint a hearing officer to conduct an adjudicatory public hearing with respect to any permit applications relating to the construction and operation of the facility. Such hearing shall be held jointly with the Facility Siting Board's hearing.
Duties of the Facility Siting Board Chairman/prehearing conference	PA	361.4(d)	At least two weeks prior to the commencement of the joint hearing, the Chairman of the Facility Siting Board must direct the parties, their representatives or attorneys to appear for a prehearing conference. At this conference the Board, if it is the lead agency, either will announce whether the DEIS (draft environmental impact statement?) as prepared or accepted by the Department is acceptable or shall set forth those areas in which the DEIS is deficient. The applicant will be directed to be prepared to remedy any deficiencies in scope during the joint hearing in a manner satisfactory to the Board. If the Board determines that the DEIS has major deficiencies, it may direct the applicant to submit a supplemental DEIS. In these cases a revised notice of the hearing shall be published. Nothing in 361.4 is to limit the Chairman's ability to use the prehearing conference for other purposes as set forth in NYCRR Part 624 or any other Part of NYCRR Title 6.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Facility Siting Board and Hearing Officer responsibilities	PA	361.4(e)	<p>Ⓒ Within 60 calendar days after their appointment, the Facility Siting Board and the hearing officer must conduct a joint hearing with respect to the certificated application and any permit applications required under the ECL for the construction and operation of the proposed facility. Such hearing must be conducted according to the procedures set forth in Title 6, NYCRR Part 624 except to the extent that these procedures are modified by NYCRR Part 361.</p> <p>Ⓒ The Chairman of the Facility Siting Board and the hearing officer must enter into a memorandum of agreement regarding their obligations and responsibilities with respect to the conduct of the hearing. The applicant and all parties to the hearing shall be provided with a copy of the memorandum of agreement.</p>
Hearing Report and Determination	PA	361.4(f)	On or before 60 calendar days after receipt by the Facility Siting Board of a “complete record” as defined in §302(1)(a)-(e) of the State Administrative Procedures Act, the Board shall issue a hearing report including its determination on the certificate application. The determination must be based upon substantial evidence in view of the entire record and must result in a decision which either grants a certificate containing any conditions the Board deems appropriate or denies a certificate. The Chairman of the Facility Siting Board must mail written notice of the Board’s decision to the applicant, the Department and all parties to the hearing.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
OTHER			
Public information program addressing the hazardous waste facility siting problem	NA	[§27-1111]	<p>The Department shall establish a public information program that addresses:</p> <ul style="list-style-type: none"> ! The nature and dimension of the industrial hazardous waste treatment, storage and disposal facility siting problem ! The need for establishing a statewide hazardous waste facility siting plan including the need to site any additional industrial hazardous waste treatment, storage and disposal facilities and the role of waste reduction, recycling and reuse in the planning process ! The necessity and opportunities for public participation in the siting and planning process

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
SITING RESTRICTIONS AND PROHIBITIONS			
Federal siting restrictions and prohibitions can be viewed at http://www.epa.gov/epacfr40/chapt-I.info/subch-I/ by selecting “Part 264 (Updated 1997) - Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities”. The regulatory requirements are in Location Standards at 264.18 in the document. (State regulations cannot be less stringent than the federal counterparts.)			
SOIL AND WATER			
Contamination of ground and surface waters	PA	361.7(b)(7)	<p>The Facility Siting Board shall consider the potential for groundwater and surface water contamination as the result of the construction and operation of the site. Both onsite and off-site effects and proposed methods to mitigate any adverse effects relating to the contamination of all ground and surface waters must be analyzed. Specific criteria:</p> <p>(a) Ground and surface water aspects</p> <p>! Most favorable--the site is optimally located and is not in hydraulic contact with and no contamination problems are anticipated with respect to: floodplains, wetlands, recharge zones, surface waters, and aquifers.</p> <p>! Less favorable--the site is less than optimally located and is in hydraulic contact with one or more of the following factors: floodplains, wetlands, recharge zones, surface waters, and aquifers. However, it is anticipated that these locational limitations can be overcome without extensive effort.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Contamination of ground and surface waters (continued)			<p>! Least favorable--the site's locational characteristics associated with floodplains, wetlands, recharge zones, surface waters, and aquifers present severe problems with respect to water contamination. Extensive efforts would be required to overcome these natural conditions.</p> <p>(b) Runoff</p> <p>! Most favorable--the natural topography associated with the site is advantageous; it will inhibit surface water runoff from entering and leaving the active site.</p> <p>! Less favorable--the natural topography associated with the site will encourage surface water runoff from entering and leaving the site's active area; therefore, some site modification may be necessary.</p> <p>! Least favorable--the natural topography associated with the site will encourage surface water runoff to enter and leave the active site area; extensive site modification will be necessary to overcome these natural conditions.</p> <p>(c) Hydrogeological characteristics.</p> <p>! Most favorable--natural soil conditions at the site are optimal; the soil characteristics would impede any groundwater contamination.</p> <p>! Less favorable--subsurface conditions at the site do not present any major problems with respect to groundwater contamination; however, site modifications may be required to further reduce the risk of groundwater contamination.</p> <p>! Least favorable--subsurface conditions at the site are not desirable; extensive site modifications would be required to reduce the risk of groundwater contamination.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
SEISMIC CONSIDERATIONS			
No provisions found. The State does not appear to have analogs to 40 CFR 264/265.18(a), probably because New York is not listed as a seismically active area in 40 CFR Part 264, Appendix VI.			

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
FLOODING AND EROSION			
Floodplains	PA	373-2.2(j)(1)	<p>A facility located in a 100-year flood plain must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood, unless the owner or operator can demonstrate to the Commissioner's satisfaction that:</p> <ul style="list-style-type: none"> (a) procedures are in effect which will cause the waste to be removed safely, before floodwaters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters, or (b) for existing surface impoundments, waste piles, land treatment units, landfills, and miscellaneous units no adverse affects on human health or the environment will result if washout occurs, considering: <ul style="list-style-type: none"> ! the volume and physical and chemical characteristics of the waste in the facility. ! the concentration of hazardous constituents that would potentially affect surface waters as a result of washout; ! the impact of such concentrations on the current or potential uses of, and water quality standards established for, the affected surface waters; and ! the impact of hazardous constituents on the sediments of affected surface waters or the soils of the 100-year flood plain that could result from washout. <p>(Note these requirements are the same as those found at 40 CFR 264.18(b))</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
AIR			
Air quality	PA	361.7(b)(10)	<p>Siting of a facility must take into account air quality problems which may result from the operation of the facility or accidental fires and explosions which may occur. The Board must consider potential air quality problems which may occur as the result of historical or estimated meteorological conditions and to what extent such respective problems and conditions will affect neighboring communities. Specific criteria:</p> <p>(a) Atmospheric stability--the site must be evaluated on the basis of the frequency of occurrence of stable atmospheric conditions which are conducive to the development of high pollution levels.</p> <ul style="list-style-type: none"> ! Most favorable--areas in which atmospheric conditions are historically "unstable". ! Less favorable--areas in which atmospheric conditions are historically "neutral" or "less stable". ! Least favorable--areas in which atmospheric conditions are historically "stable". <p>(b) Prevailing wind direction--population exposure to air pollution in the vicinity of a site will depend upon the frequency distribution of wind directions for the area.</p> <ul style="list-style-type: none"> ! Least favorable--areas located upwind from populated areas. <p>These may be determined from representative historical data for the area or estimated on the basis of general meteorological principles.</p> <ul style="list-style-type: none"> ! Most favorable--areas located downwind from populated areas. ! Less favorable--areas located perpendicular to populated areas relative to prevailing winds. <p>(c) Wind speed--concentrations of air pollutants emitted from ground level sources are inversely proportional to the wind speed. Hence, the frequency distribution of wind speeds in a site area indicates the potential for high concentrations of pollutants.</p> <ul style="list-style-type: none"> ! Most favorable--areas most likely to be associated with higher wind speeds. ! Less favorable--areas in which wind speeds are predominately moderate. ! Least favorable--areas of low wind speed.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
DISTANCE LIMITATIONS/BUFFER ZONES			
Structures within 0.5 miles of the transportation route	PA	361.7(b)(3)(d)	<p>Structures within 0.5 miles:</p> <p>! Most favorable--there are less than 50 residences, and no schools or hospitals within 0.5 miles of the transportation route.</p> <p>! Less favorable--there are between 50 and 150 residences, and no schools or hospitals.</p> <p>! Least favorable--there are more than 150 residences and one or more schools or hospitals.</p>
Proximity to incompatible structures	PA	361.7(b)(4)	<p>The linear distance from the site boundary to incompatible structures must be considered (e.g., residences, airports, schools, hospitals, churches, commercial centers, nursing homes). Acceptable buffer zones separating residences and certain other types of sensitive population structures from the types of operation conducted at hazardous waste sites are needed. Specific criteria:</p> <p>(a) Proximity to airports.</p> <p>! Most favorable--there are no airport runways within two miles of a site.</p> <p>! Less favorable--there are airport runways used by turbojet and piston type aircraft located between one and two miles of a site.</p> <p>! Least favorable--there are airport runways used by turbojets and piston type aircraft located between 0.5 and 1 mile of a site.</p> <p>(b) Proximity to other incompatible structures.</p> <p>! Most favorable--there are no residences, schools, hospitals, churches, commercial centers, nursing homes, or other sensitive populated structures within .5 miles of the site boundary.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Proximity to incompatible structures (Continued)			<p>! Less favorable--there is one or more residences, schools, hospitals, churches, commercial centers, nursing homes, or other sensitive populated structures within 0.25-0.5 miles of the site boundary.</p> <p>! Least favorable--there is one or more residences, schools, hospitals, churches, commercial centers, nursing homes, or other sensitive populated structures within .25 miles of the site boundary.</p>
Fire and explosion hazard--minimum distances to buildings	PA	361.7(b)(9)	<p>Due to the nature of the wastes, special consideration must be given by the Facility Siting Board to the potential for fires and explosions at the site. Because of the inherent quality of the wastes, the chief focus shall be on proposed safety measures and emergency response techniques. Specific criteria:</p> <p>(a) Minimum distances</p> <p>! Most favorable--distances for the site to residential, commercial, and industrial buildings, public highways, railroads etc. are substantially greater than minimums established in the <i>American Table of Distances for Storage of Explosives</i>, by the Institute of Makers of Explosives.</p> <p>! Less favorable--distances from the site to residential, commercial, and industrial buildings, public highways, railroads, etc., meet minimums, established in the above-mentioned table.</p> <p>! Least favorable--the site is less than the minimum established distances mentioned above, or the applicant has not considered appropriate minimum distances.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
OTHER HUMAN HEALTH CONSIDERATIONS			
Water supply sources	PA	361.7(b)(8)	<p>The Board must consider all aspects of the facility's impact on sources of water supply for human and animal consumption, i.e., the effect the facility will have on surface water or aquifers located on and in the vicinity of the site which are used for domestic, agricultural, or industrial purposes. The location of boundaries of water supply watersheds both public and prime importance. The current and potential uses of such sources and the extent to which the facility will create conditions inconsistent with those uses must be considered. Specific criteria:</p> <p>(a) Relationship to other water supply sources:</p> <p>! Most favorable--the proposed site is not in proximity to public or private drinking water supplies or livestock water supplies; public or private bodies of recreational water; or agricultural, commercial or industrial water supplies. No potential problems are anticipated.</p> <p>! Less favorable--the proposed site is located within proximity to public or private drinking water supplies or livestock water supplies; public or private bodies of recreational water; or agricultural, commercial, or industrial water supplies. However, mitigative measures can be used to protect water supply sources.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Water supply sources (Continued)	PA	361.7(b)(8)	<p>! Least favorable--the proposed site is in an unfavorable site which is located within in close proximity to public or private drinking water supplies or livestock water supplies; public or private bodies of recreational water; or agricultural, commercial or industrial water supplies. Mitigative measures are expected to be employed, but they may not be sufficient to ensure the protection of water supply sources.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
ENVIRONMENTALLY SENSITIVE AREAS			
Endangered Species			
Preservation of endangered, threatened and indigenous species	PA	361.7(b)(12)	<p>The Board must focus on adverse impacts of the facility on endangered, threatened, and indigenous species or critical habitat for wildlife generally and the extent to which mitigation measures can be effectively implemented. Specific criteria:</p> <p>(a) Developmental and operational impacts on endangered, threatened, and indigenous species or critical habitat.</p> <p>! Most favorable--sites where the development and operation of proposed facilities are not expected to jeopardize the continued existence of endangered, threatened, and indigenous species by destruction or adverse modification of their habitat.</p> <p>! Less favorable--sites where the development and operation of proposed facilities could possibly jeopardize the continued existence of endangered, threatened, and indigenous species by destruction or adverse modification of their habitat, but where effective mitigative measures are expected to be used.</p> <p>! Least favorable--sites where the development and operation of proposed facilities is likely to jeopardize the continued existence of endangered, threatened, and indigenous species by destruction or adverse modification of their habitat, and where mitigative measures are either ineffective or not expected to be used.</p>
Critical Habitats			
See above entry for endangered species			
Wetlands			
No provisions found.			

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Wild, Scenic or Recreational Areas			
Open space, recreational and visual impacts	PA	361.7(b)(14)	<p>The Facility Siting Board must consider the extent to which the facility will diminish available open space and recreational resources used by the surrounding communities and the visual aesthetic impact of the facility and its proximity to areas that are much traveled by the general public. The Board must consider both actual and constructive deprivation of the use of these resources. Proposed mitigative measures should be considered as well.</p> <p>Specific criteria:</p> <p>(a) Proximity to open space and recreational resources.</p> <p>! Most favorable--the development and operation of the proposed facility are not expected to adversely affect the presence of use of existing or proposed open space and recreation resources.</p> <p>! Less favorable--the development and operation of the proposed facility could possibly affect the presence or use of existing or proposed open space and recreation resources, but where effective mitigative measures are expected to be used.</p> <p>! Least favorable--the development and operation of the proposed facility are likely to remove or adversely affect the use of existing open space and recreation resources and where mitigative measures are expected to be ineffective or are not expected to be used.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Open space, recreational, and visual impacts (continued)			<p>(b) Relationship to scenic views or vistas.</p> <p>! Most favorable--the development and operation of the proposed facility do not adversely affect the view of the scenic points, vistas, and other elements that are visually pleasing. Overall, the quality of the visual scene is either improved or maintained.</p> <p>! Less favorable--the development and operation of the proposed facility partially eliminate or obstruct the view of scenic points, vistas, and other elements that are visually pleasing. Overall the quality of the visual scene is somewhat limited.</p> <p>! Least favorable--the development and operation of the proposed facility wholly eliminate or obstruct the view of scenic points, vistas, and other elements that are visually pleasing. Overall, the quality of the visual scene is severely diminished.</p> <p>(c) Degree to which the proposed facility is readily noticeable to passers-by</p> <p>! Most favorable--the proposed facility is not readily noticeable to passers-by.</p> <p>! Less favorable--the proposed facility will be readily noticeable to passers-by, but visual barriers or cover are expected to be used.</p> <p>! Least favorable--the proposed facility will be readily noticeable to passers-by, and where visual barriers or cover are not expected to be used or are not expected to be effective.</p>
Approved Farmland Preservation Areas			
No provisions found.			
Other			
No provisions found.			

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
OTHER RESTRICTIONS			
Salt domes, salt bed formations, underground mines and caves	PA	373-2.2(j)(2)	<p>The placement of any noncontainerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine or cave is prohibited.</p> <p>(Note these requirements are the same as those found at 40 CFR 264.18(c))</p>
Areas of mineral exploration	PA	361.7(b)(11)	<p>Areas of concern are those where mineral resources of solid or liquid form have been removed by various procedures. Such areas commonly present limitations to land disposal facilities due to excavation close to or into groundwater, to avenues of rapid transmittal of contaminants should leakage or spillage occur through boreholes or improperly or uncased wells, and structural instability and possibility of subsidence due to extensive subsurface removal of mineral resources. Specific criteria:</p> <p>(a) Risk of subsidence</p> <ul style="list-style-type: none"> ! Most favorable--areas in which mineral exploitation has not involved subsurface removal. ! Less favorable--areas in which mineral exploitation have involved some subsurface removal are less acceptable. ! Least favorable--areas in which mineral exploitation has involved substantial subsurface removal.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
ENVIRONMENTAL JUSTICE CONSIDERATIONS			
No provisions found.			
ECONOMIC CRITERIA			
Public expense/revenue tradeoffs	PA	261.7(b)(6)	<p>The short- and long-term financial effects of the addition of the proposed facility to the municipality shall be considered. Both the increased tax revenues and the added burden of providing services to the facility are important.</p> <p>Public expense/revenue tradeoffs</p> <p>! Most favorable--public revenues associated with the facility would far exceed the public expenses that are likely to be incurred over the short- and long-term (i.e., the first 20 years of operation).</p> <p>! Less favorable--public revenues associated with the facility would only marginally exceed the public expenses that are likely to be incurred over the short- and long-term (i.e., first 20 years of operation).</p> <p>! Least favorable--public expenses associated with the proposed facility would be greater than the public revenues that are expected to accrue over the short- and long-term (i.e., first 20 years of operation).</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
OTHER CRITERIA			
Population density in the vicinity of the proposed site	PA	361.7(b)(1)	<p>The Board is to focus its inquiry on the current population density in areas adjacent to the proposed site and on population projections for those areas. Population density within 0.5 miles of the proposed site boundary must be the prime consideration unless specific conditions unique to a particular site dictate otherwise. The population density ranges are appropriate for a major high technology hazardous waste management facility utilizing a comprehensive arrangement of storage, treatment and disposal technologies. The hypothetical facility would have an approximate annual treatment capacity of 25 million gallons or more of hazardous waste and would represent a situation where potentially significant impacts have been identified which may adversely affect populations immediately adjacent to the site boundary. Greater population density may be appropriate in the case of a smaller hypothetical facility or if the nature of the facility and its operations will pose a relatively small potential hazard to adjacent populations. Specific criteria:</p> <p style="margin-left: 40px;">(a) The residential and nonresidential populations within 0.5 mile of the site boundary</p> <p style="margin-left: 80px;">C Most favorable--the population density is very low (e.g., less than 150 persons per square mile).</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Population density in the vicinity of the proposed site (continued)			<p> C Less favorable-- the population density is moderate (e.g., 150-400 persons per square mile). C Least favorable--the population density is high (e.g., greater than 400 person per square mile). </p> <p>(b) The projected population density and the rate of growth for the area within .5 mile of the site boundary during the 20-year period following initial site operation.</p> <p> C Most favorable--the population is not expected to increase. C Less favorable--the population is expected to increase above current levels at a rate less than the rate forecasted for the county in which the site is located. C Least favorable--the population is expected to increase above current levels at a rate greater than the rate forecasted for the county in which the site is located. </p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Population adjacent to the transport route	PA	361.7(b)(2)	<p>The Board shall consider the population within 0.5 mile of the transportation route between the site entrance and the interstate/limited access highway interchange(s) which is to be used by site-bound motor vehicles delivering waste to the site. The major concern is the extent to which an accident occurring in transit will result in exposure and injury to the population along the routes. The criteria given in the regulations are appropriate for a major high technology hazardous waste management facility utilizing a comprehensive arrangement of storage, treatment, and disposal technologies. The hypothetical facility would have an approximate annual treatment capacity of 25 million gallons or more of hazardous waste and would represent a situation where potentially significant impacts have been identified which may adversely affect populations immediately adjacent to the site boundary and transport routes. Specific criteria include:</p> <ul style="list-style-type: none"> (a) The residential and nonresidential population for areas within 0.5 miles of the anticipated transport routes. <ul style="list-style-type: none"> C Most favorable--the population is low (e.g., less than 500 persons) C Less favorable--the population is moderate (e.g., 500-1500 persons) C Least favorable--the population is high (e.g., greater than 1,500 persons) (b) The projected population and the rate of growth for areas within .5 mile of the transport routes during the 20-year period following initial site operation. <ul style="list-style-type: none"> • Most favorable--the population is not expected to increase. • Less favorable--the population is expected to increase above current levels at a rate less than the rate forecasted for the county in which the site is located. <ul style="list-style-type: none"> • Least favorable--the population is expected to increase above current levels at a rate greater than the rate forecasted for the county in which the site is located.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Risk of accident in transportation	PA	361.7(b)(3)	<p>The Board shall evaluate the risk associated with the transportation of hazardous wastes to the proposed site. Accident risk is a function of the probability of an accident and the consequences of an accident. The transport route(s) between the site entrance and the interstate/limited access highway interchange(s) over which the wastes will be delivered to the site shall be considered by the Board. Specific criteria:</p> <p>(a) Mode of transportation:</p> <ul style="list-style-type: none"> • Most favorable--the transportation mode(s) used are those which have a low associated accident rate. • Less favorable--the transportation mode(s) would have a somewhat higher accident rate associated with their utilization. • Least favorable--the transportation mode(s) used has the highest rate of accidents. <p>(b) Length of transport route:</p> <ul style="list-style-type: none"> • Most favorable--the wastes will be transported only a short distance to the site (less than 5 miles). • Less favorable--the wastes will be transported a moderate distance to the site (a range of 5-15 miles). • Least favorable--the wastes will be transported a substantial distance to the site (greater than 15 miles).

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Risk of accident in transportation (continued)			<p>(c) Accident rate of transport route:</p> <p>! Most favorable--where motor vehicles are employed, the transport route is characterized by a low accident rate.</p> <p>! Less favorable--where motor vehicles are employed, the transport route has a somewhat higher accident rate.</p> <p>! Least favorable--where motor vehicles are employed, the transport route has a very high accident rate.</p> <p>(d) Structures within 0.5 miles:</p> <p>! Most favorable--there are less than 50 residences, and no schools or hospitals within 0.5 miles of the transportation route.</p> <p>! Less favorable--there are between 50 and 150 residences, and no schools or hospitals.</p> <p>! Least favorable--there are more than 150 residences and one or more schools or hospitals.</p> <p>(e) Transportation restrictions:</p> <p>! Most favorable--the number of restrictions per mile is less than four.</p> <p>! Less favorable--the number of restrictions per mile is between four and eight.</p> <p>! Least favorable--the number of restrictions per mile is greater than eight.</p> <p>(f) Nature and volume of waste being transported.</p> <p>! Most favorable--the nature and volume of the waste being transported to the site would pose no potential adverse environmental or health effects in the event of an accident.</p> <p>! Less favorable--the nature and volume of the waste being transported to the site would pose a significant potential for adverse environmental or health effects in the event of an accident.</p> <p>! Least favorable--the nature and volume of the waste being transported to the site would pose a significant potential for adverse environmental or health effects in the event of an accident.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Utility Lines	PA	361.7(b)(5)	<p>The location of a proposed site must take into account existing or proposed major utility lines to insure that the generation, transportation, treatment, storage or disposal of hazardous waste at, near or about such a site will not interfere with, cause damage to, or otherwise disrupt the operation of major utilities. Specific criteria:</p> <p>Proximity to major utility lines--</p> <ul style="list-style-type: none"> ! Most favorable--there are no such utility lines in the vicinity of the site. ! Less favorable--there is at least one such utility line in the vicinity of the site but relocation is not necessary. ! Least favorable--relocation of one or more such utility line is necessary.
Municipal Effects	PA	361.7(b)(6)	<p>The site shall be considered for consistency with the intent of municipal master land use plan, and with local laws, ordinances, rules and regulations which have not been adopted pursuant to a master land use plan. It is important to insure that the construction and operation of the proposed facility will not adversely impact planning schemes developed by the municipalities in which they are located. Further, the short and long-term financial effects of the addition of the proposed facility to the municipality shall be considered. Both the increased tax revenues and the added burden of providing services to the facility are important. Specific criteria:</p> <p>(a) Consistency with the intent of master land use plan</p> <ul style="list-style-type: none"> ! Most favorable--the siting of the proposed facility is consistent with the specific intent and overall approach of the master land use plan. ! Less favorable--the siting of the proposed facility is generally consistent with the specific intent and overall approach of the master land use plan although some inconsistencies are present. ! Least favorable--the siting of the proposed facility has major inconsistencies with the specific intent and overall approach of the master land use plan.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Municipal Effects (Continued)			<p>(b) Consistency with local laws, ordinances, rules and regulations.</p> <p>! Most favorable--the siting of the proposed facility is consistent with those local laws, ordinances, rules and regulations which have not been adopted pursuant to a master land use plan.</p> <p>! Less favorable--the siting of the proposed facility is generally consistent with those local laws, ordinances, rules and regulations which have not been adopted pursuant to a master land use plan.</p> <p>! Least favorable--the siting of the proposed facility has major inconsistencies with those local law, ordinances, rules and regulations which have not been adopted pursuant to a master land use plan.</p> <p>(c) Public expense/revenue tradeoffs.</p> <p>! Most favorable--public revenues associated with the facility would far exceed the public expenses that are likely to be incurred over the short- and long term (i.e., the first 20 years of operation).</p> <p>! Less favorable--public revenues associated with the facility would only marginally exceed the public expenses that are likely to be incurred over the short- and long-term (i.e., first 20 years of operation).</p> <p>! Least favorable--public expenses associated with the proposed facility would be greater than the public revenues that are expected to accrue over the short- and long-term (i.e., first 20 years of operation).</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Fire and explosions	PA	361.7(b)(9)	<p>Due to the nature of the wastes, special consideration must be given by the Facility Siting Board to the potential for fires and explosions at the site. Because of the inherent quality of the wastes, the chief focus shall be on proposed safety measures and emergency response techniques. Specific criteria:</p> <p>(a) Minimum distances</p> <ul style="list-style-type: none"> ! Most favorable--distances for the site to residential, commercial, and industrial buildings, public highways, railroads etc. are substantially greater than minimums established in the <i>American Table of Distances for Storage of Explosives</i>. ! Less favorable--distances from the site to residential, commercial, and industrial buildings, public highways, railroads, etc., meet minimums, established in the above-mentioned table. ! Least favorable--the site is less than the minimum established distances mentioned above, or the applicant has not considered appropriate minimum distances.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Fire and explosions (continued)			<p>(b) Fire departments and emergency medical services</p> <p>! Most favorable--the site is in area serviced by organized, fully staffed, 24-hour fire department and emergency medical teams.</p> <p>! Less favorable--the site is in an areas serviced by organized voluntary fire departments and emergency medical teams.</p> <p>! Least favorable--the area in which the site is located is not served by a fire department or emergency medical team.</p> <p>(c) Proximity to fire department and fire fighting water supply. A suitable water supply will be as recommended by the New York State Department of State Office of Fire Prevention and Control.</p> <p>! Most favorable--the site is relative close (e.g., within 3 miles) to the fire department, or onsite fire fighting capacity exists to allow for rapid response, and to a suitable water supply.</p> <p>! Less favorable--the site is farther away (e.g., 3-5 miles) form the fire department's location and from a suitable water supply.</p> <p>! Least favorable--the site is farther away (e.g., more than 5 miles) from the fire department's location and from a suitable water supply.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
Conservation of historic and cultural resources	PA	361.7(b)(13)	<p>The construction and operation of the facility may affect the preservation of historic and cultural resources. The extent to which these resources will be disturbed and/or lost and measure to mitigate adverse effects must be considered by the Board. The Board must also consider the facility's impact on the public's access to nearby historic and cultural resources and any negative impact on the visitation to these resources.</p> <p>Proximity to historic or cultural resources</p> <p>! Most favorable--the development and operation of the proposed facility is not expected to adversely affect the preservation or use of significant historic and cultural resources.</p> <p>! Less favorable--the development and operation of the proposed facility could possibly, wholly or partially, adversely affect the preservation or use of significant historic and cultural resources, but where effective mitigative measures are expected to be used.</p> <p>! Least favorable--the development and operation of proposed facility if likely to adversely affect the preservation or used of significant historic and cultural resources and where mitigative measures are expected to be either ineffective or not used.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
STATEWIDE SITING PLAN			
Note: According to a representative from the NYDEC, this plan has been abandoned and is not updated each year.			
ADMINISTRATION			
The Department--responsibilities relative to developing the initial statewide hazardous waste facility siting plan	NA	[§27-1102.1]	<p>After passage of Title 11 of the ECL, the Department was to immediately begin preparation of a statewide hazardous waste facility siting plan to establish a framework to guide state agencies and authorities and the Facility Siting Board in the discharge of their responsibilities and to assure the availability of industrial hazardous waste treatment, storage, and disposal facilities which:</p> <ul style="list-style-type: none"> ! have adequate capacity for the destruction, treatment, or secure disposition of all hazardous wastes that are reasonably expected to be generated within the State in the next twenty years; ! are within the State or outside the state in accordance with an interstate agreement or regional agreement or authority; ! comply with all Federal and State requirements governing such facilities; and ! comply with the preferred hazardous waste management practices hierarchy established pursuant to ECL §27-0105.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
The Department--responsibilities relative to developing the initial statewide hazardous waste facility siting plan (continued)	NA	[§27-1102.1 & .2] (continued.)	<p>The plan must include, but is not limited to:</p> <ul style="list-style-type: none"> ! An inventory and appraisal including the identification, location and life expectancy of all industrial hazardous waste treatment, storage and disposal facilities located within the State. ! A compilation and analysis of existing inventories, reports and studies of the sources, composition and quantity of industrial hazardous waste generated within the State and of existing programs for waste reduction, recycling and reuse. ! Long-range projections of at least twenty years of the amounts and composition of hazardous waste generated within the State and, to the extent feasible, in neighboring states. ! A schedule for phasing out land disposal, other than treated residuals in compliance with the policy established in ECL §27-0105. ! The identification, if appropriate, of areas of the State which have compatible hazardous waste generation streams and similar interest in providing regional hazardous waste management and disposal capacity to primarily service such areas. ! A determination of the number, size, type and location by area of the State of new or expanded industrial hazardous treatment, storage and disposal facilities which will be needed for the proper long-term management of hazardous waste consistent an equitable distribution of facilities. ! An analysis of transportation routes and transportation risk and costs from industrial hazardous waste generators to existing or potentially suitable sites for industrial hazardous waste treatment, storage and disposal facilities. ! Recommendations on regional and statewide coordination of methods and procedures to encourage cooperative treatment, storage, disposal and transportation of industrial hazardous waste and other such hazardous waste management methods. ! Recommendations on procedures for periodically updating the statewide hazardous waste facility siting plan and for future coordination of hazardous waste management and planning on a regional basis.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
The Department--when the statewide hazardous waste facility siting plan must be completed	NA	[§27-1102.3, .5 & .6]	The plan must be prepared and adopted by the Department within six months after the effective date of ECL §27-1102. The draft plan must have undergone public hearings within twelve months after the effective date of ECL §27-1102. Within fifteen months, final revisions must be made on the plan and it must be transmitted to the Governor and Legislature and it must be made available to all interested parties.
The Department--responsibilities once the final statewide hazardous waste facility siting plan is adopted	NA	[§27-1102.7]	Once the plan is adopted, the Department must immediately establish a schedule for siting any new or expanded industrial hazardous waste treatment, storage, or disposal facilities identified as necessary in the plan.

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
The Department--responsibilities relative to maintaining the plan	NA	[§27-1109]	<p>Within one year from adopting the plan, and annually thereafter, the Department must review the implementation of the plan including the status of all existing facilities and all permit applications for new or expanded industrial hazardous waste treatment, storage, or disposal facilities. If the Department finds that the existing facilities alone or in combination with one or more pending or approved facility permit applications are sufficient to meet the schedule included in the plan, the Department must so notify the Governor and the Legislature identifying the existing facilities and new facility applications. The Department must also state that no further action is necessary on the part of the State. If after its review, the State finds that the existing and pending/approved facilities are not sufficient to meet the plan, the Department must also notify the Governor and the Legislature, indicating the specific facilities needed to meet the plan's schedule. The Department must also immediately undertake measures and actions to assist any facility owners and operators in finding an appropriate site or sites. It should also hold public hearings or briefings designed to encourage and facilitate discussion and negotiations among potential owners/operators and any potential host community. Within six months of determining that additional facilities are needed in the State, the Department must report in writing to the Governor and Legislature detailing the measures and actions taken.</p> <p>If such actions and measures have failed to result in filings sufficient to meet the plan's schedule, the Department must include in the report the reasons for this failure as well as recommendations on the actions necessary to meet the plan's schedule including a determination as to the necessity for the State through the Environmental Facilities Corporation to initiate the siting and construction of those facilities necessary to meet the schedule.</p>

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New York Hazardous Waste Facility Siting Provisions

Topic	Stage ¹	State citation ²	Provision
PUBLIC PARTICIPATION RELATIVE TO STATEWIDE PLAN			
Notification			
Notice of completion of the statewide hazardous waste facility siting plan	NA	[§27-1102.4]	Upon completion of the draft statewide plan, the Department must make it available to all interested persons. The Department must publicize this plan and solicit comments. (Note no specific timeframes are given in ECL §27-1102.4.)
Hearings			
Public hearing for the draft statewide hazardous waste facility siting plan	NA	[§27-1102.4 through .6]	The Department must hold at least one public hearing within each region of the State to review and solicit comments on the draft plan. Within twelve months after the effective date of ECL §27-1102, the Department must have completed public hearings on the draft plan as it deems necessary or appropriate. The Department must make the revised plan available to all interested persons and shall solicit comments and hold public hearings on the revised plan. The final plan must be completed within 15 months after the effective date of ECL §27-1102. That plan must also be made available to all interested parties as well as transmitted to the Governor and the Legislature.
Public hearings or briefings to encourage and facilitate discussions and negotiations among potential owners and host communities	PPA/PA	[§27-1109.4]	If after reviewing the statewide hazardous waste facility site plan, the Department finds that existing and pending/approved facilities are not sufficient to meet the schedule contained in the plan, the Department must undertake measures to assist any interested potential industrial hazardous waste treatment, storage and disposal facility owners/operators in finding an appropriate site. The Department shall hold public hearings or briefings designed to encourage and facilitate discussion and negotiations among such potential owners and operators and any potential host community for such facilities.

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